

Chapter 5

Voter List Maintenance

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I. Overview

Section 8 of the NVRA requires that any program aimed at ensuring the integrity of voter registration rolls conforms to certain basic requirements. First, the program must be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.). Second, it may not operate to remove the name of any person from an official list of registered voters by reason of the person's failure to vote.

The NVRA places restrictions on the conditions that can result in removal of a voter from an official list of registered voters and establishes a framework for state voter registration confirmation systems used to remove voters from official registration rolls when voters move out of a county or become otherwise ineligible to vote.

The NVRA requires states to accept voter registration applications submitted to any NVRA voter registration agency by the state's voter registration deadline, which is 15 days before each election in California.

II. Receipt of Voter Registration Cards

The NVRA addresses the time period for accepting voter registration cards (VRCs) and determining eligibility for an upcoming election. Under the NVRA, a VRC must be accepted as timely for an upcoming election if the VRC is received in one of the following ways:

1. By mail, and was:
 - **Postmarked** on or before the voter registration deadline
2. By the Department of Motor Vehicles (DMV), and was
 - **Submitted** to DMV on or before the voter registration deadline
3. By another NVRA voter registration agency, and was:
 - **Accepted** at the agency on or before the voter registration deadline.
4. By an elections office, and was:
 - **Received** at the elections office on or before the voter registration deadline.

The DMV, and other agencies designated as NVRA voter registration agencies, are generally required to transmit completed VRCs to elections offices within 10 days of receipt or acceptance and within five days, if received or accepted within five days of the voter registration deadline. Elections offices should process VRCs expeditiously and create up-to-date polling place certification lists. While delays may occur in the transmittal of VRCs from the DMV or another NVRA

voter registration agency, elections offices must nevertheless process valid VRCs that were: 1) submitted on or before the voter registration deadline to the DMV or another NVRA voter registration agency; and 2) received by the elections office prior to the end of the official canvass period.

III. Sending Voter Notification Cards

Section 8 of the NVRA requires that state elections offices notify each voter registration applicant of the disposition of his or her voter registration application, for instance, whether the application is accepted or rejected and whether additional information is needed.

In California, this notification is provided by means of a Voter Notification Card (VNC) sent by mail from the elections office to the applicant. The state VNC regarding missing information meets NVRA Section 8 notice requirements. A non-forwardable VNC is sent **after** the voter is added to the Active Voter File. If the voter has moved, then the post office returns the VNC to the county, and the voter is then placed in the Inactive Voter File.

In order to start the process for a voter registration to be canceled, a forwardable confirmation postcard, meeting the NVRA Section 8 requirements, as outlined below, is required.

IV. Active and Inactive Voter Files

The NVRA does not mention “active” and “inactive” voter registration voter files. However, the federal reporting regulations define “active voters” as all registered voters except those who have failed to respond to a Section 8 notice. “Inactive voters” are defined as registered voters who have been sent a Section 8 notice and have failed to respond. In California, this includes voters for whom the post office has returned a VNC because the voter has moved. What is important to keep in mind is that “inactive” voters under the California Elections Code and the NVRA are registered voters, eligible to vote in an election, provided the voter confirms residency at the polling place. Under California law, however, voters in the Inactive Voter File are not mailed election materials, and are not taken into consideration in determining the number of signatures required for qualification of candidates or ballot measures, precinct size, or other election administration processes.

Active Voter File Maintenance

Under California law, Active Voter Files are maintained indefinitely, either in hardcopy or electronically.

Inactive Voter File Maintenance

Inactive Voter Files contain records of voters who have been sent a confirmation mailing to confirm address-change information and have not responded.

A list of voters on the Inactive Voter File is provided to each polling place in the county. A voter whose name is on the Inactive Voter File and arrives to vote may confirm his or her residency and vote. The voter will then be reinstated on the Active Voter File.

V. Cancellation of Voter Files

A voter registration may be cancelled by written request from the voter or because of death, mental incompetency, criminal conviction, or following the process established in California law and in NVRA Section 8(d)(2), described below, for voters who have moved to a new address.

Address Confirmation Process

If the elections official receives information from the U.S. Postal Service indicating that the voter has moved to a new address, then the elections official begins the address confirmation process as provided in California law and in NVRA Section 8(d)(2).

Within County Move

If it appears that the change is within the same county in which the voter is currently registered, the registrar may not remove the voter but must update the registration records to show the new address and send a forwardable mail notice of the address change and a postage paid, pre-addressed return form for the voter to verify or correct the address information. If the voter fails to return the form, the registrant may *not* be removed from the voter rolls based on an apparent change of address within the same county.

Out of County Move

If it appears that the voter has moved to a different county, the registrar must use the following address confirmation procedure to attempt to confirm the change of address before cancelling the voter registration.

The address confirmation procedure requires sending a forwardable notice in the form of a postage-paid and pre-addressed return card, on which the voter may state his or her current address. Additionally, the notice must explain to voters that:

- The postcard should be returned no later than the voter registration deadline;
- If the postcard is not returned, the voter may be required to confirm the residence address the next time he or she votes; and

- If the voter does not vote between the date of the notice and the second federal general election after the date of the notice, his or her name may be removed from the list of eligible voters.

The voter may be placed on the Inactive Voter File if he or she does not return the address confirmation notice by the voter registration deadline for the next election after the confirmation notice is sent. If the registrant has not moved to a different county and votes in an election before the second general election for Federal office after the confirmation notice is sent, then elections officials must restore the voter to the Active Voter File.

If the voter provides written confirmation of a change of address to a different county, then the voter can be immediately removed from the rolls in the prior county.

If the voter does not return the postcard and does not vote in the following two federal elections, then the voter registration may be cancelled.

While the NVRA requires that the voter be informed that his or her name will be removed from the list of eligible voters, the NVRA does not specifically require removal. It simply provides that the notice and waiting period procedure outlined above must be followed before removal. Likewise, California law makes removal in this instance permissive rather than mandatory.

VI. Voter Registration Cards where the voter indicates he or she is not a U.S. Citizen:

The VRC asks the applicant if he or she is a United States citizen. The voter may check either “Yes”, “No”, or not check either box.

If the voter indicates, by checking the “yes” box, that he or she is a U.S. citizen, the registration should be processed normally.

If the voter indicates, by checking the “No” box, that he or she is not a U.S. citizen, the registration may not be entered on the voter rolls. The elections official should send the voter a returnable card or letter requesting clarification as to whether or not the voter is a U.S. citizen. If the voter returns the card indicating that he or she is a U.S. citizen, the VRC should be entered on the voter rolls. If the card is returned and the voter indicates he or she is not a citizen, or if no response is received from the voter, then the voter shall not be registered.

If the voter does not check either the “Yes” or “No” box, and the registration is otherwise complete, the registration should be processed normally and entered on the voter rolls.

VII. California Notices to Voters

Voter Notification Card (VNC)

As described above, California law requires a Voter Notification Card (VNC) to be sent to each voter registration applicant. The purpose of the VNC is two-fold: (a) to notify the applicant that he or she is registered to vote, and; (b) to confirm the voter's address information. As noted above, the VNC meets the NVRA's requirement to notify each voter registration applicant of the disposition of his or her registration.

These cards are sent first class non-forwardable. The post office provides updated information if the card cannot be delivered as addressed, but does not forward it to the addressee.

VNCs are mailed to the residence address listed on the registration unless a separate mailing address has been provided. If a VNC addressed to a mailing address is returned by the post office, it will be treated as a notice of change of residence and a forwardable address confirmation mailing will be sent.

Residency Confirmation Postcard (RCOP)

California law also requires elections officials to conduct a residency confirmation procedure at least 90 days before each election. Elections officials may either:

1. Obtain National Change of Address System (NCOA) data from the United States Postal Service and send a *forwardable* notice, including a postage-paid and preaddressed return form to enable the voter to verify or correct address information, to each voter who appears to have moved based on NCOA data. (If the voter has given no forwarding address to the post office, then elections officials need not send a forwardable notice to the voter.)
2. Send a first class, *non-forwardable* residency confirmation postcard (RCOP) to all registered voters. Voters who have voted in an election in the previous six months may be excluded from the mailing.

These procedures and the California RCOP notice meet NVRA Section 8(d)(2) notice requirements.

MAINTENANCE OF VOTER FILES

| Source of Information | NVRA Section 8(d)(2) Confirmation Mailing Required | Voter Notification Card (VNC) Required | Residency Confirmation Postcard (RCOP) Required | County Elections Official Action |
|--|---|---|---|---|
| New VRC | No | Yes | No | <ul style="list-style-type: none"> • Add to or Update Active Voter File. • Place old record in Canceled Voter File. • Retain new VRC. |
| VRC missing required information. | No | No | No | <ul style="list-style-type: none"> • Follow EC 2153 to obtain missing information. If the missing information is obtained, the VRC is considered effective as of the date the VRC was initially received. |
| VRC checked as non-citizen but signed under penalty of perjury confirming citizenship. | No | Yes | No | <ul style="list-style-type: none"> • Do not enter on files. • Send a VNC for clarification. If the voter affirms citizenship, the VRC may be processed. Otherwise, the voter may not be registered. |
| Written request from voter to be removed or confirming a move out of county. | No | No | No | <ul style="list-style-type: none"> • Place voter record in Canceled Voter File. • Retain written request for 22 months. |

| Source of Information | NVRA Section 8(d)(2) Confirmation Mailing Required | Voter Notification Card (VNC) Required | Residency Confirmation Postcard (RCOP) Required | County Elections Official Action |
|---|---|---|---|---|
| Written request from voter to change address <u>within</u> county. | No | Yes | No | <ul style="list-style-type: none"> • Update Active Voter File. • Send VNC to confirm status. • Place old record in Canceled Voter File. • Retain written request for 22 months. |
| Change of address notice from DMV or designated agencies initiated by the voter (voter has option of declining change for registration purposes). | No | Yes | No | <ul style="list-style-type: none"> • If in-county, update Active Voter File and place old record in Canceled Voter File. • If out-of-county, place voter record in Canceled Voter File. • Retain notice for 22 months. |
| Official notice: death, felony conviction and in prison or on parole, mental incompetence. | No | No | No | <ul style="list-style-type: none"> • Place voter record in Canceled Voter File. • Retain written request for 22 months. |
| Official notice from another elections office that voter has registered in another county and had prior registration in your county. | No | No | No | <ul style="list-style-type: none"> • Place voter record in Canceled Voter File. • Retain written request for 22 months. |

| Source of Information | NVRA Section 8(d)(2) Confirmation Mailing Required | Voter Notification Card (VNC) Required | Residency Confirmation Postcard (RCOP) Required | County Elections Official Action |
|--|---|---|--|---|
| Registered voter moves within your county; if you do not obtain new VRC, but voter signs log/roster/provisional envelope giving old address. | No | Yes | No | <ul style="list-style-type: none"> • Update Active Voter File; or • Reinstate from Inactive Voter File. • Retain log/roster for 22 months. |
| Notice that California driver license was surrendered in another state. | Yes | No | Yes | <ul style="list-style-type: none"> • Place record in Inactive Voter File. • Generate a forwardable confirmation mailing. • Retain notice for 22 months. |
| Court notification of returned jury notices. | Yes | No | Yes | <ul style="list-style-type: none"> • If new address provided in-county, update Active Voter File and place old record in Inactive Voter File. • If new address out-of-county, place record in Inactive Voter File. • Generate a forwardable confirmation mailing. • Retain notice for 22 months. • Follow up with VRC to new occupant if mailing returned “undeliverable”. |

| Source of Information | NVRA Section 8(d)(2) Confirmation Mailing Required | Voter Notification Card (VNC) Required | Residency Confirmation Postcard (RCOP) Required | County Elections Official Action |
|--|---|---|--|---|
| NCOA or mailing returned to election office, i.e., VNCs Sample Ballots, Absentee Ballots, Residency Confirmation Postcards (in-county). | Yes | No | Yes | <ul style="list-style-type: none"> • Update Active Voter File; old address goes to Inactive Voter File. • Generate a forwardable confirmation mailing. • Retain notice of change for 22 months. • Follow up with VRC to new occupant if part of purge process. |
| NCOA or mailing returned to election office, i.e., VNCs Sample Ballots, Absentee Ballots, Residency Confirmation Postcards (out-of-county or undeliverable.) | Yes | No | Yes | <ul style="list-style-type: none"> • Place voter record in Inactive Voter File. • Generate a forwardable confirmation mailing. • Retain notice of change for 22 months. • Follow up with VRC to new occupant if part of purge process or anytime if returned "undeliverable." |
| Notice from Poll Inspector of a voter's change of address. | No | No | Yes | <ul style="list-style-type: none"> • Send a residency confirmation postcard to old address. • If returned, follow steps as outlined above for returned mailings. |